

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

STANLEY HOUSTON,)	CASE NO. 1:11 CV 2297
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	
SOCIAL SECURITY)	<u>OPINION AND ORDER</u>
ADMINISTRATION,)	
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J.:

Pro se Plaintiff Stanley Houston filed this action against the Social Security Administration. In the Complaint, he asserts several unrelated claims and appears to ask to pay the Defendant “three or four months back pay for some reason Plaintiff was overpaid.” (ECF No. 1 at 4.)

Plaintiff also filed an Application to Proceed *In Forma Pauperis*. That Application is granted.

I. BACKGROUND

Plaintiff’s Complaint is disjointed and at times difficult to follow. He indicates he applied for and was granted Social Security Supplemental Income (“SSSI”) benefits. He claims he suffers from a mental disability. He contends hundreds of millions of people were “invading [his] identity identification” through the vital statistic department of the Cleveland City Hall. (ECF No. 1 at 1.)

He objects to his personal information “being exposed throughout the United States.” (ECF No. 1 at 1.)

Thereafter, Plaintiff’s Complaint becomes less organized. He states he is handling his own funds from SSSI. He indicates he decided to have his checks sent directly to a mental health services provider who maintains low income housing for qualifying residents. He claims he has not had medication for paranoid schizophrenia. He claims he was in an accident and he is not responsible for his actions. He states he has had four toes amputated, and has had a kidney removed. He indicates his jaw was fractured, his skull was fractured and he lost 28 teeth. He also contends he has a serious skin and blood disorder called “atomic eczema dermatitis.” (ECF No. 1 at 3.) Plaintiff claims he decided to drop some of the issues he was intending to address with this Court.

II. LAW AND ANALYSIS

Standard of Review

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the district court is required to dismiss an *in forma pauperis* action under 28 U.S.C. §1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact.¹ *Neitzke v. Williams*, 490 U.S.

¹ An *in forma pauperis* claim may be dismissed *sua sponte*, without prior notice to the plaintiff and without service of process on the defendant, if the court explicitly states that it is invoking section 1915(e) [formerly 28 U.S.C. § 1915(d)] and is dismissing the claim for one of the reasons set forth in the statute. *McGore v. Wrigglesworth*, 114 F.3d 601, 608-09 (6th Cir. 1997); *Spruytte v. Walters*, 753 F.2d 498, 500 (6th Cir. 1985), cert. denied, 474 U.S. 1054 (1986); *Harris v. Johnson*, 784 F.2d 222, 224 (6th Cir. 1986); *Brooks v. Seiter*, 779 F.2d 1177, 1179 (6th Cir. 1985).

319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996). A claim lacks an arguable basis in law or fact when it is premised on an indisputably meritless legal theory or when the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327. A cause of action fails to state a claim upon which relief may be granted when it lacks “plausibility in the complaint.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 564 (2007). A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009). The factual allegations in the pleading must be sufficient to raise the right to relief above the speculative level on the assumption that all the allegations in the Complaint are true. *Bell Atl. Corp.*, 550 U.S. at 555. The Plaintiff is not required to include detailed factual allegations, but must provide more than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 129 S.Ct. at 1949. A pleading that offers legal conclusions or a simple recitation of the elements of a cause of action will not meet this pleading standard. *Id.* In reviewing a Complaint, the Court must construe the pleading in the light most favorable to the Plaintiff. *Bibbo v. Dean Witter Reynolds, Inc.*, 151 F.3d 559, 561 (6th Cir.1998).

Sovereign Immunity

The United States, as a sovereign, cannot be sued without its prior consent, and the terms of its consent define the court’s subject matter jurisdiction. *McGinness v. U.S.*, 90 F.3d 143, 145 (6th Cir. 1996). A waiver of sovereign immunity must be strictly construed, unequivocally expressed, and cannot be implied. *U.S. v. King*, 395 U.S. 1,4 (1969); *Soriano v. U.S.*, 352 U.S. 270, 276 (1957). The Social Security Administration is an agency of the United States. Therefore, to being a claim against this entity, Plaintiff must demonstrate that the United States waived its

sovereign immunity for the type of claim.

Plaintiff, however, gives no indication of the legal claim or claims he is attempting to assert, and none is apparent on the face of the Complaint. It is therefore impossible to determine whether the United States has waived its sovereign immunity. To state a viable claim against a Defendant, the Complaint must contain either direct or inferential allegations respecting all the material elements of some viable legal theory to satisfy federal notice pleading requirements. *See Schied v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 437 (6th Cir. 1988). District courts are not required to conjure up questions never squarely presented to them or to construct full blown claims from sentence fragments. *Beaudett*, 775 F.2d at 1278. To do so would “require ...[the courts] to explore exhaustively all potential claims of a *pro se* plaintiff, ... [and] would...transform the district court from its legitimate advisory role to the improper role of an advocate seeking out the strongest arguments and most successful strategies for a party.” *Id.* at 1278. Even liberally construing the pleading, the claim Plaintiff is attempting to raise is not apparent and therefore, there is no indication that the United States waived its sovereign immunity. *See Name.Space, Inc. v. Network Solutions, Inc.*, 202 F.3d 573, 581 (2d Cir. 2000)(finding that agencies, instrumentalities, and officers of the federal government cannot be sued under antitrust laws); *Berger v. Pierce*, 933 F.2d 393, 397 (6th Cir.1991)(stating that a *Bivens* claim cannot be asserted against the United States government or its employees in their official capacities).

III. CONCLUSION

Accordingly, Plaintiff’s Application to Proceed *In Forma Pauperis* is granted and this action is dismissed pursuant to 28 U.S.C. §1915(e). The Court certifies, pursuant to 28 U.S.C.

§1915(a)(3), that an appeal from this decision could not be taken in good faith.²

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE

January 5, 2012

² 28 U.S.C. § 1915(a)(3) provides:

An appeal may not be taken *in forma pauperis* if the trial court certifies that it is not taken in good faith.